



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 8, 2022

Mr. Joseph J. Gorfida, Jr.
Counsel for the City of Midlothian
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.
500 North Akard Street, Suite 1800
Dallas, Texas 75201

OR2022-16412

Dear Mr. Gorfida:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 952327 (Reference No. 128705).

The City of Midlothian (the "city"), which you represent, received a request for certain information pertaining to a specified utility during a defined period of time. You claim the submitted information is excepted from disclosure under section 552.1331 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.1331 of the Government Code provides, in part:

(a) In this section:

(1) "Advanced metering system" means a utility metering system that collects data at regular intervals through the use of an automated wireless or radio network.

(2) "Government-operated utility" has the meaning assigned by Section 182.051, Utilities Code.

(b) Except as provided by Subsection (c) of this section and Section 182.052, Utilities Code, information maintained by a government-operated utility is excepted from the requirements of Section 552.021 if it is information that:

(1) is collected as part of an advanced metering system for usage, services, and billing, including amounts billed or collected for utility usage; or

(2) reveals whether:

(A) an account is delinquent or eligible for disconnection; or

(B) services have been discontinued by the government-operated utility.

(c) A government-operated utility must disclose information described by Subsection (b)(1) to a customer of the utility or a representative of the customer if the information directly relates to utility services provided to the customer and is not confidential under law.

Gov't Code § 552.1331(a)-(c). We understand the city is a government-operated utility for purposes of section 552.1331. *See* Util. Code § 182.051(3) (providing a “government-operated utility” is a governmental body or entity that, for compensation, provides water, wastewater, sewer, gas, garbage, electricity, or drainage service). You state the information at issue reveals whether utility services have been discontinued by the city. Based on this representation and our review, we conclude the city must withhold the submitted information under section 552.1331(b)(2)(B) of the Government Code.

The city also asks this office to issue a previous determination that would permit it to withhold certain information pertaining to government-operated utilities under section 552.1331 of the Government Code without requesting a ruling from this office. Gov't Code § 552.301(a) (allowing governmental body to withhold information subject to previous determination); Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). After due consideration, we have decided to grant the request on this matter. Therefore, this letter ruling authorizes the city to withhold information that is collected from an advanced metering system or information that reveals whether an account is eligible for disconnection or that services have been discontinued under section 552.1331 of the Government Code without seeking a ruling from this office so long as section 552.1331(c) of the Government Code is not applicable or an election to release such information has not been made under section 182.052 of the Utilities Code. *See* Gov't Code § 552.301(a), (f); ORD 673. So long as the elements of law, fact, and circumstances do not change so as to no longer support the findings set forth above, the city need not ask for a decision from this office again with respect to this type of information. *See* ORD 673 at 7.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at <https://www.texasattorneygeneral.gov/open->

[government/members-public/what-expect-after-ruling-issued](#) or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Kimbell Kesling
Assistant Attorney General
Open Records Division

KK/be

Ref: ID# 952327

Enc. Submitted documents

c: Requestor
(w/o enclosures)